

AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 82

Introduced by Assembly Member Evans

December 23, 2008

An act to amend Sections 369.5 and 739.5 of the Welfare and Institutions Code, relating to dependent children.

LEGISLATIVE COUNSEL'S DIGEST

AB 82, as amended, Evans. Dependent children: psychotropic medications.

Existing law authorizes only a juvenile court judicial officer to make orders regarding the administration of psychotropic medications for a dependent child or a ward who has been removed from the physical custody of his or her parent. Existing law requires the court authorization for the administration of psychotropic medication to be based on a request from a physician, indicating the reasons for the request, a description of the child's or ward's diagnosis and behavior, the expected results of the medication, and a description of any side effects of the medication. Existing law requires the officer to approve or deny the request for authorization to administer psychotropic medication, or set the matter for hearing, as specified, within 7 court days.

This bill would expand the authority of a juvenile court judicial officer to make orders regarding the administration of psychotropic medications to include a dependent child or ward who has been removed from the physical custody of his or her parent or guardian, or a child who has been removed from the physical custody of a parent or guardian pending adjudication as a dependent child. The bill would require the physician ~~or other health care professional~~ submitting the request for psychotropic

medication to have conducted an examination of the child or ward. The bill would require the request to indicate additional information, including the child's medical history and a description of any clinically indicated therapy recommended for the child to participate in during the 6-month period until the next court review of the psychotropic medication. The bill would require the juvenile court judicial officer, before authorizing the administration of psychotropic medication, to make certain findings, including that the child's or ward's caregiver has been informed, and the child or ward has been informed in an age and developmentally appropriate manner, about the recommended medications, the anticipated benefits, the nature, degree, duration, and probability of side effects and significant risks, and any other recommended treatments, that the child or ward has been informed of the right to request a hearing, and that a plan is in place for regular monitoring of the medication, as specified.

This bill would require a dependent child or ward to be present in court for any hearing on the request for authorization to administer psychotropic medication, except as specified. The bill would require the court to make specified orders upon authorizing the administration of psychotropic medication to a child or ward. The bill would authorize the court to inquire about specified information in any proceeding in the juvenile court following court authorization for the administration of psychotropic medication to a child or ward.

This bill would require the State Department of Mental Health, on or before July 1, 2010, to identify or develop and make available written materials to assist county welfare agencies and mental health care providers in providing age-appropriate information to minors concerning psychotropic medications.

The bill would require the Judicial Council to adopt rules and forms to implement these provisions on or before July 1, 2010.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 369.5 of the Welfare and Institutions
- 2 Code is amended to read:
- 3 369.5. (a) If a child is adjudged a dependent child of the court
- 4 under Section 300 and the child has been removed from the
- 5 physical custody of the parent or guardian under Section 361, or

1 if the child has been removed from the physical custody of a parent
2 or guardian pending adjudication pursuant to Section 319, only a
3 juvenile court judicial officer shall have authority to make orders
4 regarding the administration of psychotropic medications for that
5 child. The juvenile court may issue a specific order delegating this
6 authority to a parent or guardian upon making findings on the
7 record that the parent or guardian poses no danger to the child and
8 has the capacity to authorize psychotropic medications. Court
9 authorization for the administration of psychotropic medication
10 shall be based on a request from a physician ~~or other health care~~
11 ~~professional~~, indicating the reasons for the request, a description
12 of the child's diagnosis and behavior, the child's medical history,
13 the expected results of the medication, the nature, degree, duration,
14 and probability of side effects and significant risks commonly
15 known by the medical profession and a description of any clinically
16 indicated therapy recommended for the child to participate in
17 during the six-month period until the next court review of
18 psychotropic medication.

19 (b) The physician ~~or other health care professional~~ submitting
20 the request for psychotropic medication shall have conducted an
21 examination of the child in compliance with Section 2242 of the
22 Business and Professions Code.

23 (c) Before authorizing the administration of psychotropic
24 medication, the juvenile court judicial officer shall make the
25 following findings:

26 (1) The child's caregiver has been informed, and the child has
27 been informed in an age and developmentally appropriate manner,
28 about the recommended medications, the anticipated benefits, the
29 nature, degree, duration, and probability of side effects and
30 significant risks commonly known by the medical profession, and
31 any other recommended treatments, and that the child has been
32 informed of the right to request a hearing pursuant to subdivision
33 (g). On or before July 1, 2010, the State Department of Mental
34 Health shall identify or develop and make available written
35 materials to assist county welfare agencies and mental health care
36 providers in providing age-appropriate information to minors
37 concerning psychotropic medications.

38 (2) A plan is in place for regular monitoring of the child's
39 medication plan, the effectiveness of the medication, and any
40 potential side effects, by the physician ~~or other health care~~

1 professional in consultation with the child's caregiver, mental
2 health care provider, and others who have contact with the child,
3 as appropriate.

4 (d) If a hearing is conducted pursuant to subdivision (g), the
5 child shall be present in court for the hearing unless the child
6 waives the right to attend after consulting with counsel or the court
7 finds that there is good cause for the child's absence from the
8 proceedings.

9 (e) In any proceeding in the juvenile court following court
10 authorization for the administration of psychotropic medication
11 to a child, the court may inquire about all of the following:

12 (1) As reported by the child's physician ~~or other health care~~
13 ~~professional~~, the effectiveness of the medication and any side
14 effects experienced by the child, the child's progress toward
15 meeting the goals outlined in the child's treatment plan and in any
16 concurrent therapy or other mental health treatment, and, if
17 applicable, any steps recommended to increase the effectiveness
18 of the medication, to reduce side effects, or to obviate the need for
19 continued administration of the medication.

20 (2) Any behavior changes and possible side effects that have
21 been observed by individuals who have regular contact with the
22 child.

23 (3) Any statements or concerns expressed by the child regarding
24 the medication.

25 (f) (1) In counties in which the county child welfare agency
26 completes the request for authorization for the administration of
27 psychotropic medication, the agency is encouraged to complete
28 the request within three business days of receipt from the physician
29 of the information necessary to fully complete the request.

30 (2) Nothing in this subdivision is intended to change current
31 local practice or local court rules with respect to the preparation
32 and submission of requests for authorization for the administration
33 of psychotropic medication.

34 (g) Within seven court days from receipt by the court of a
35 completed request, the juvenile court judicial officer shall either
36 approve or deny in writing a request for authorization for the
37 administration of psychotropic medication to the child, or shall,
38 upon a request by the parent, the legal guardian, or the child's
39 attorney, or upon its own motion, set the matter for hearing.

1 (h) Psychotropic medication or psychotropic drugs are those
2 medications administered for the purpose of affecting the central
3 nervous system to treat psychiatric disorders or illnesses. These
4 medications include, but are not limited to, anxiolytic agents,
5 antidepressants, mood stabilizers, antipsychotic medications,
6 anti-Parkinson agents, hypnotics, medications for dementia, and
7 psychostimulants.

8 ~~(i) For purposes of this section, a “health care professional” is~~
9 ~~a licensed professional authorized to prescribe psychotropic~~
10 ~~medications pursuant to Division 2 (commencing with Section~~
11 ~~500) of the Business and Professions Code.~~

12 ~~(j)~~

13 (i) Nothing in this section is intended to supersede local court
14 rules regarding a child’s right to participate in mental health
15 decisions.

16 ~~(k)~~

17 (j) The Judicial Council shall adopt rules and forms to implement
18 the provisions of this section on or before July 1, 2010.

19 SEC. 2. Section 739.5 of the Welfare and Institutions Code is
20 amended to read:

21 739.5. (a) If a minor who has been adjudged a ward of the
22 court under Section 601 or 602 is removed from the physical
23 custody of the parent or guardian under Section 726 and placed
24 into foster care, as defined in Section 727.4, only a juvenile court
25 judicial officer shall have authority to make orders regarding the
26 administration of psychotropic medications for that minor. The
27 juvenile court may issue a specific order delegating this authority
28 to a parent or guardian upon making findings on the record that
29 the parent or guardian poses no danger to the minor and has the
30 capacity to authorize psychotropic medications. Court authorization
31 for the administration of psychotropic medication shall be based
32 on a request from a physician ~~or other health care professional~~,
33 indicating the reasons for the request, a description of the minor’s
34 diagnosis and behavior, the minor’s medical history, the expected
35 results of the medication, the nature, degree, duration, and
36 probability of side effects and significant risks commonly known
37 by the medical profession, and a description of any clinically
38 indicated therapy recommended for the minor to participate in
39 during the six-month period until the next court review of
40 psychotropic medication. On or before July 1, 2008, the Judicial

1 Council shall adopt rules of court and develop appropriate forms
2 for implementation of this section.

3 (b) The physician ~~or other health care professional~~ submitting
4 the request for psychotropic medication shall have conducted an
5 examination of the minor in compliance with Section 2242 of the
6 Business and Professions Code.

7 (c) Before authorizing the administration of psychotropic
8 medication, the juvenile court judicial officer shall make the
9 following findings:

10 (1) The minor's caregiver has been informed, and the minor has
11 been informed in an age and developmentally appropriate manner,
12 about the recommended medications, the anticipated benefits, the
13 nature, degree, duration, and probability of side effects and
14 significant risks commonly known by the medical profession, and
15 any other recommended treatments, and that the minor has been
16 informed of the right to request a hearing pursuant to subdivision
17 (g). On or before July 1, 2010, the State Department of Mental
18 Health shall identify or develop and make available written
19 materials to assist county welfare agencies and mental health care
20 providers in providing age-appropriate information to minors
21 concerning psychotropic medications.

22 (2) A plan is in place for regular monitoring of the minor's
23 medication plan, the effectiveness of the medication, and any
24 potential side effects, by the physician ~~or other health care~~
25 ~~professional~~ in consultation with the minor's caregiver, mental
26 health care providers, and others who have contact with the minor,
27 as appropriate.

28 (d) If a hearing is conducted pursuant to subdivision (g), the
29 minor shall be present in a court for the hearing unless the minor
30 waives the right to attend after consulting with counsel or the court
31 finds that there is good cause for the minor's absence from the
32 proceedings.

33 (e) In any proceeding in the juvenile court following court
34 authorization for the administration of psychotropic medication
35 to a minor, the court may inquire about all of the following:

36 (1) As reported by the minor's physician ~~or other health care~~
37 ~~professional~~, the effectiveness of the medication and any side
38 effects experienced by the minor, the minor's progress toward
39 meeting the goals outlined in the minor's treatment plan and in
40 any concurrent therapy or other mental health treatment, and, if

1 applicable, any steps recommended to increase the effectiveness
2 of the medication, to reduce side effects, or to obviate the need for
3 continued administration of the medication.

4 (2) Any behavior changes and possible side effects that have
5 been observed by individuals who have regular contact with the
6 ~~child~~ minor.

7 (3) Any statements or concerns expressed by the minor regarding
8 the medication.

9 (f) (1) The agency that completes the request for authorization
10 for the administration of psychotropic medication is encouraged
11 to complete the request within three business days of receipt from
12 the physician of the information necessary to fully complete the
13 request.

14 (2) Nothing in this subdivision is intended to change current
15 local practice or local court rules with respect to the preparation
16 and submission of requests for authorization for the administration
17 of psychotropic medication.

18 (g) Within seven court days from receipt by the court of a
19 completed request, the juvenile court judicial officer shall either
20 approve or deny in writing a request for authorization for the
21 administration of psychotropic medication to the minor, or shall,
22 upon a request by the parent, the legal guardian, or the minor's
23 attorney, or upon its own motion, set the matter for hearing.

24 (h) Psychotropic medication or psychotropic drugs are those
25 medications administered for the purpose of affecting the central
26 nervous system to treat psychiatric disorders or illnesses. These
27 medications include, but are not limited to, anxiolytic agents,
28 antidepressants, mood stabilizers, antipsychotic medications,
29 anti-Parkinson agents, hypnotics, medications for dementia, and
30 psychostimulants.

31 ~~(i) For purposes of this section, a "health care professional" is~~
32 ~~a licensed professional authorized to prescribe psychotropic~~
33 ~~medications pursuant to Division 2 (commencing with Section~~
34 ~~500) of the Business and Professions Code.~~

35 ~~(j)~~

36 (i) Nothing in this section is intended to supersede local court
37 rules regarding a minor's right to participate in mental health
38 decisions.

39 ~~(k)~~

- 1 *(j)* The Judicial Council shall adopt rules and forms to implement
- 2 the provisions of this section on or before July 1, 2010.

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